



GRADING AND CLEARING PERMIT APPLICANT'S GUIDE

County Board of Supervisors' Ordinance No. 9329 requires an Administrative Permit for brushing, clearing and grading of land to protect San Diego County's native vegetation as wildlife habitat, scenery, and for erosion control.

This permit is not required if the project is:

- Clearing for fire protection within 100 feet of a house.
- Conducting very limited clearing for landscaping, surveying, geotechnical exploration, percolation tests, or wells.

Applicants are cautioned **NOT** to grade or clear land for development unless permits have been issued.

For more specific information on exemptions please refer to the attached Grading and Clearing Ordinance (No. 9329).

To apply for a Grading and Clearing Permit please provide the Zoning Counter with the following:

1. Completed Administrative Permit package for grading and clearing (DPLU #305, #320, #346 and #346S).
2. Six copies of a plot plan showing the areas to be brushed, cleared, or graded.
3. One USGS topographical map with the property outlined in red.
4. Photos of the area to be cleared.
5. One Application for Environmental Initial Study (DPLU #367) with Sections I; II A; II B1, II B2; II C; IVA; IV B1, IV B2 and IV B2 completed.
6. Two copies of a Stormwater Management Plan (SWMP).
7. A check for the appropriate fees, made payable to the County of San Diego.

Stiff penalties have been instituted for failure to comply with this ordinance. Penalties include a fine of up to \$1,000 per day and potential prohibition of land use permits on the site for a period of five years.

ORDINANCE NO. 7415 (NEW SERIES)

AN ORDINANCE IMPOSING REGULATIONS
ON GRADING AND CLEARING

AS AMENDED BY ORDINANCE NO. 7460 (NEW SERIES)
ADOPTED BY THE BOARD OF SUPERVISORS MARCH 23, 1988
(AMENDED VERSION EFFECTIVE APRIL 22, 1988)
AS AMENDED BY ORDINANCE NO. 9329 (NEW SERIES)
ADOPTED BY THE BOARD OF SUPERVISORS MAY 2, 2001

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds that:

- (a) Uncontrolled grading and clearing (including brushing and grubbing) is of particular concern in San Diego County because of the very large number of threatened and endangered species and habitats, areas of high aesthetic concern, and the high erodibility of local soils.
- (b) Clearing and illegal grading have been used to destroy environmental resources prior to application for a land development permit, during the permit process, after project approval but prior to the application of protecting open space easements, and after dedication of open space.
- (c) Grading violations, when reported, result in relatively minimal fines and, because of the difficulty in obtaining convictions, are not a serious deterrent to illegal grading. A fine often will not prevent a violation of this ordinance because a fine may be considered simply as an additional development cost. Therefore, a penalty, other than a fine, is necessary to induce continued and consistent compliance with the ordinance and to prevent violations of the ordinance.
- (d) Clearing for legitimate reasons (geotechnical, exploration and access for percolation tests and wells, and clearing for fire protection) is frequently done well in excess of the minimum necessary to accomplish the purpose.
- (e) The Board of Supervisors determines that the regulations set forth in this ordinance will provide the necessary protection of the County's environmental resources.

Section 2. Notwithstanding any provision contained in The County Code of Regulatory Ordinances, The Zoning Ordinance or the County General Plan to the contrary, the following interim regulations are herewith adopted:

- (a) For the purpose of this Ordinance the following definitions apply:
 - (1) "Grading" refers to any excavation or filling or combination thereof and shall include the land in its excavated or filled condition.
 - (2) "Clearing" refers to the removal of natural vegetation by any means, including brushing and grubbing.

(3) "Floodplain" refers to any 100-year floodplain delineated on maps used by the Department of Public Works, Division of Flood Control, or any other area subject to inundation in a 100-year flood.

(4) "Administrative permit" refers to an administrative permit issued by the Director, Department of Planning and Land Use.

(5) "Biological Mitigation Ordinance" shall mean that Ordinance adopted by the Board of Supervisors to implement the Multiple Species Conservation Plan for the County of San Diego.

(6) "Multiple Species Conservation Plan" shall mean the comprehensive habitat conservation-planning program which addresses multiple species habitat needs and the preservation of native vegetation for an approximate 900-square mile area in southwestern San Diego County, California, adopted by the Board of Supervisors on October 22, 1997.

(b) Unless exempt from the provisions of this Ordinance or granted a waiver from the administrative permit requirements, all grading and clearing shall be done only after issuance of one of the following, as may be applicable:

(1) a grading permit by the Department of Public Works pursuant to Title 8, Division 7 of the County Code of Regulatory Ordinances,

(2) a grading permit by the Department of Planning and Land Use pursuant to Section 87.210 of the County Code of Regulatory Ordinances,

(3) an administrative permit by the Department of Planning and Land Use pursuant to this Ordinance.

(c) All grading and clearing shall conform to the conditions of the authorizing permit, the waiver, or the exemption.

(d) Clearing of vegetation done in preparation for land development shall not be undertaken until both of the following have occurred:

(1) all discretionary approvals for the land development have been issued, and

(2) the appropriate permit listed in subsection (2)(b) of this Ordinance has been issued.

(e) Any grading or clearing which is done in violation of subsections (2)(b), (2)(c) or (2)(d) of this Ordinance shall be a misdemeanor punishable by a one thousand dollar (\$1,000) fine. Each day or any portion of a day that any person violates or continues to violate this Ordinance constitutes a separate offense and may be charged and punished separately without awaiting conviction on any prior offense. The penalties imposed by this subsection are in addition to penalties imposed under the County Code of Regulatory Ordinances and The Zoning Ordinance.

(f) Any grading or clearing which according to a field inspection of the property was done in violation of subsections (2)(b), (2)(c) or (2)(d) of this Ordinance shall be grounds for denying for five years all applications for grading permits, Administrative Permits, Site Plans, Use Permits, Major and Minor Subdivisions, Rezones, Specific Plans, Specific Plan Amendments, and General Plan

Amendments proposed for the property on which the violation occurred. The five-year period shall commence from the date of the violation, if documented, or from the date of discovery of the violation.

(1) Upon evidence that mitigation measures have been taken to rehabilitate the site or that other appropriate measures have been taken to mitigate the adverse effects of the illegal grading or clearing, the Board of Supervisors may waive the penalty imposed by this subsection.

(g) Administrative Permit required.

Clearing activities, and Grading activities which are not subject to subsection (2) (b) (1) or (2) (b) (2), shall require the issuance of an administrative permit.

(h) Procedure for Administrative Permit required by subsection (g). The following procedure shall be followed to process an Administrative Permit required by subsection (g):

(1) Applicant submits application to the Department of Planning and Land Use on form prescribed by that Department.

(2) Department of Planning and Land Use reviews application for potential adverse environmental impacts.

(3) Where appropriate, staff of the Department of Planning and Land Use suggests to applicant changes which would make proposed activity acceptable.

(4) The Director of Planning and Land Use shall determine whether to issue, conditionally issue, or deny the administrative permit. The Director shall not issue or conditionally issue the administrative permit unless he or she first finds that the clearing authorized by the permit will comply with all requirements of Chapter 8 (commencing with Section 67.801) of Division 7 of Title 6 of the San Diego County Code.

(i) Fee. A fee of fifty dollars (\$50) shall be charged for processing an Administrative Permit required by this Ordinance.

(j) The following activities are exempt from the provisions of this Ordinance, if they occur on land located outside the boundaries of the Multiple Species Conservation Program Subarea Plan, as shown on the map attached as Attachment A to the Biological Mitigation Ordinance.

(1) Clearing of up to a maximum of five acres, on a parcel zoned for single-family residential use and improved with a single-family residence. The amount of land cleared under this exemption shall not exceed a total of five acres, regardless of the number of occasions on which clearing is performed.

(2) Routine landscaping, maintenance, and the removal of dead or diseased trees or shrubs.

(3) Clearing for fire protection purposes within 100 feet of a dwelling unit. Any additional clearing for fire prevention, control or suppression purposes is exempt when authorized or required, in writing, by a fire prevention or suppression agency.

(4) Limited clearing as necessary for the purpose of surveying, geotechnical exploration and access for percolation tests and wells. This exemption does not include clearing for building pads or leach fields.

(5) Clearing, and minor grading which does not require a grading permit, either of which are incidental to the repair, alteration or construction of a single-family dwelling and accessory buildings and structures pursuant to an approved building permit.

(6) Clearing, and minor grading which does not require a grading permit, either of which conform to the location, extent and purpose authorized, explicitly or implicitly, by an approved plot plan pursuant to a discretionary land use permit or a discretionary development permit.

(7) Clearing incidental to grading activities which are exempt from a grading permit requirement pursuant to County Code of Regulatory Ordinances Sections 87.201(c), (d), (e), (g), (h), and (i).

(8) Tilling or cultivating land exclusively for purposes of growing agricultural plants or animals, provided that the tilling or cultivating will not block or divert any natural drainage way, and the land to be tilled or cultivated has been in agricultural production for at least one of the preceding five years. This exemption does not allow the establishment of new agricultural operations on, or the expansion of existing agricultural operations onto, any area which has not been in agricultural production for at least one of the preceding five years.

(k) Clearing of land located within the boundaries of the Multiple Species Conservation Program Subarea Plan, as shown on the map attached as Exhibit A to the Biological Mitigation Ordinance (Ordinance No. 8845 (N.S.)), shall be exempt from the provisions of this Ordinance if the proposed clearing is exempt from the Biological Mitigation Ordinance pursuant to its terms.

(1) Limited clearing to provide access to property to perform activities that would otherwise be exempt from the provisions of this Ordinance.

Section 3. In the event that any grading or clearing is commenced or done contrary to the provisions of this Ordinance, the Director of Public Works or the Director of Planning and Land Use, as appropriate, may cause to be recorded with the County Recorder a notice of grading or clearing violation for the property. The Director of Public Works or the Director of Planning and Land Use, as appropriate, shall cause the notice of grading or clearing violation to be removed when he or she determines that the violation no longer exists.

Section 4. A decision by a County official that a violation of this Ordinance has occurred may be appealed pursuant to Zoning Ordinance Sections 7200-7206.